
**FOOD STAMP REGULATIONS
CORRECTIVE ACTIONS**

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63-801	CLAIMS AGAINST HOUSEHOLDS	63-801
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.1 Establishing Claims Against Households and/or Against Sponsors of Alien Households

All adult household members shall be jointly and individually liable for the value of any overissuance of benefits to the household. The CWD shall establish a claim, in accordance with Section 63-801.2, against any household that has received more food stamp benefits than it is entitled to receive or any household which contains an adult member who was an adult member of another household that received more food stamp benefits than it was entitled to receive, except as specified in Section 63-801.12. Any sponsor of an alien and the sponsored alien shall be held jointly and individually liable for repayment of any overissuance of food stamp benefits that results from incorrect information provided by the sponsor. In such cases, the CWD shall establish a claim against the sponsor or the alien household as provided in Section 63-801.13.

.11 Time Frame for Establishing Inadvertent Household Error, Administrative Error, and Intentional Program Violation Claims

The CWD shall take action, within the time frames of this section, to establish a claim against any household that received an overissuance due to an inadvertent household or administrative error. Intentional Program violation claims shall be established and handled in accordance with Section 63-801.23.

.111 The CWD shall take action on inadvertent household and administrative error claims for which less than three years have elapsed between the month the overissuance occurred and the month the CWD determined by computation that an overissuance occurred, irrespective of the date the DFA 842 was completed.

.112 The CWD shall not take action on inadvertent household and administrative error claims for which more than three years have elapsed between the month the overissuance occurred and the month the CWD determined by computation that the overissuance occurred irrespective of the date the DFA 842 was completed.

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.12 No claim shall be established if an overissuance occurred as a result of an administrative error which resulted in an overissuance of \$35 or less, or as the result of the following:

.121 The CWD failed to ensure that a household fulfilled the following procedural requirements:

- (a) Signed the application form;
- (b) Completed a current work registration form;
- (c) Was certified in the correct county.

.122 The household transacted, but did not alter an expired authorization document.

.13 Claims Against Alien Households and Sponsors of Alien Households

.131 The CWD shall hold the alien's household solely liable for repayment of an overissuance in benefits, and establish a claim against the household, if the CWD determines that the sponsor had good cause or was not at fault for providing the incorrect information that resulted in the overissuance.

.132 If the CWD determines that the sponsor did not have good cause, or was at fault, as specified in Section 63-801.413, the CWD shall establish a claim for the overissuance against either the sponsor or the sponsored alien's household, or both. The CWD either shall establish claims against both parties at the same time or establish a claim against the party it deems most likely to repay first.

- (a) If a claim is established against the sponsor first, the CWD shall ensure that a claim is established against the household whenever the sponsor fails to respond within 30 days of receipt to the notice of action requesting repayment.
- (b) The CWD shall return to the sponsor and/or the household any amounts repaid in excess of the total amount of the claim as determined on the DFA 842.

.2 Types of Claims

The CWD shall categorize and account for all claims against households as inadvertent household error claims, administrative error claims or intentional Program violation claims.

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.21 Inadvertent Household Error Claims

- .211 A claim shall be handled as an inadvertent household error claim if the overissuance was caused by a misunderstanding or unintended error on the part of the household or the sponsor of an alien household. This shall also apply to such errors made by categorically eligible households, provided the claim can be calculated based on a change in net income and/or household size.
- .212 Instances of inadvertent household error which may result in a claim include, but are not limited to, the following:
- (a) The household, or the sponsor unintentionally failed to provide the CWD with correct or complete information.
 - (b) The household unintentionally failed to report to the CWD changes in household circumstances or the circumstances of its sponsor.
 - (c) The household unintentionally received benefits or more benefits than it was entitled to receive pending a state hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits.

.22 Administrative Error Claims

- .221 A claim shall be handled as an administrative error claim if the overissuance was caused by the action or inaction of any CWD. This shall also apply to categorically eligible households only when the CWD incorrectly determined the household's net income and/or household size.
- .222 Instances of administrative error which may result in a claim include, but are not limited to, the following:
- (a) The CWD failed to take prompt action on a change reported by the household.
 - (b) The CWD incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment.
 - (c) The CWD incorrectly issued duplicate authorization documents which were subsequently transacted by the household.

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- (d) The CWD continued to provide a household with food stamp allotments after its certification period had expired without benefit of a reapplication determination.
- (e) The Agency failed to provide a household a reduced allotment because its PA grant increased.

.23 Intentional Program Violation Claims

- .231 A claim shall be handled as an intentional Program violation claim only if an administrative disqualification hearing official or a court of appropriate jurisdiction has determined that a household member or the sponsor had committed an intentional Program violation, as defined in Section 20-300.1 or if an individual accused of intentional Program violation has signed either a Disqualification Consent Agreement or an Administrative Disqualification Hearing Waiver as defined in Sections 63-102(a)(2) and (d)(6). Prior to a determination of intentional Program violation the claim against the household shall be established and handled as an inadvertent household error claim.

- .232 Repealed by Manual Letter No. FS-87-12, effective 10/1/87.

.3 Calculating the Amount of Claims

.31 Inadvertent Household and Administrative Error Claims

- .311 For each month that a household received an overissuance due to an inadvertent household or administrative error, the CWD shall determine the correct amount of food stamp benefits the household was entitled to receive.
- (a) The CWD shall not allow claims established prior to April 1, 1984 to be recalculated for non-IPV-caused overissuances which occurred more than 12 months prior to the month of discovery.
 - (b) The CWD shall calculate the amount of the overissuance which occurred during the three years preceding the date the overissuance was discovered. The CWD shall not include in its calculation any amount of the overissuance which occurred in a month more than three years prior to the date the overissuance was discovered.
 - (c) In cases involving reported changes, the CWD shall determine the month the overissuance initially occurred as follows:

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- (1) If, due to an inadvertent error on the part of the household, the household failed to report a change in its circumstances within the time frames required in Section 63-505, the first month affected by the household's failure to report shall be the first month in which the change would have been effective had it been timely reported. However, in no event shall the CWD determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.
 - (2) For monthly reporting households, a claim shall be established when the household fails to report a change on the CA 7 by the extended filing date for the appropriate report month. For nonmonthly reporting households, a claim shall be established if the household fails to report a change within 10 days of the date the change became known.
 - (3) If the household timely reported a change, but the CWD did not act on the change within the required time frames, the first month affected by the CWD's failure to act shall be the first month the CWD would have made the change effective had it timely acted. However, in no event shall the CWD determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.
- .312 If the household received a larger allotment than it was entitled to receive, the CWD shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.
- (a) For categorically eligible households, a claim shall be determined only when the amount of the overissuance can be calculated on the basis of the household's net income and/or household size.
 - (b) For further action required when the overissuance is discovered for a month or months in which any member has already performed a Workfare or work component requirement, see Section 63-407.89.
 - (c) When determining the amount of benefits the household should have received, the CWD shall not apply the 20 percent earned income deduction to that portion of earned income which the household failed to report.
- .313 After calculating the amount of the inadvertent household or administrative error claim, the CWD shall offset the amount of the claim against any amounts which have not yet been restored to the household as a restoration of lost benefits in accordance with Section 63-802.54. The CWD shall then initiate collection action for the remaining balance, if any.

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.32 Intentional Program Violation Claims

- .321 For each month that a household received an overissuance due to an act of intentional Program violation, the CWD shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the intentional Program violation claim shall be calculated back to the month the act of intentional Program violation occurred, regardless of the length of time that elapsed until the determination of intentional Program violation was made or the date the Waiver of Right to an Administrative Disqualification Hearing or Disqualification Consent Agreement was signed.

However, the CWD shall not include in its calculation any amount of the overissuance which occurred in a month more than six years from the date the overissuance was discovered or prior to March 1, 1979. If the household member is determined to have committed intentional Program violation by intentionally failing to report a change in its household's circumstances, the first month affected by the household's failure to report shall be the first month in which the change would have been effective had it been reported. However, in no event shall the CWD determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.

- .322 If the household received a larger allotment than it was entitled to receive, the CWD shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.
- .323 When determining the amount of benefits the household should have received, the CWD shall not apply the 20 percent earned income deduction to that portion of earned income which the household intentionally failed to report as determined by an administrative disqualification hearing or a court of appropriate jurisdiction or by the signing of an Administrative Disqualification Hearing Waiver or a Disqualification Consent Agreement.
- .324 Once the amount of the intentional Program violation claim is established, the CWD shall offset the claim against any amount of lost benefits that have not been restored to the household as lost benefits in accordance with Section 63-802.54.

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.4 Collecting Claims Against Households and Sponsors of Alien Households

.41 Criteria for Initiating Collection Action on Inadvertent Household and Administrative Error Claims

- .411 CWDs shall initiate collection action against the household for all inadvertent household error claims, or administrative error claims or against the sponsor in accordance with Section 63 or one of the following conditions apply:

- (a) The total amount of the claim is less than \$35, and the claim cannot be recovered by reducing the household's allotment.
- (b) The CWD has documentation which shows that the household or the sponsor of an alien household cannot be located.

- .412 The CWD may postpone collection action on inadvertent household error claims in cases where an overissuance is being referred for possible legal prosecution or for administrative disqualification, and the CWD determines that collection action will prejudice the case.

- .413 Prior to initiating collection action against the household of a sponsored alien for repayment of an overissuance caused by incorrect information having been provided concerning the alien's sponsor or sponsor's spouse, the CWD shall determine whether such incorrect information was provided due to inadvertent error or intentional Program violation on the part of the alien or the alien's sponsor. The CWD shall inform the alien's sponsor that neither the sponsor nor his/her spouse shall be held responsible for repayment of the overissuance if the sponsor can demonstrate that he/she had good cause or was not at fault for the incorrect information having been provided to the CWD.

- (a) A sponsor will be without fault or have good cause for not providing correct information only when the sponsor has met all of his/her responsibilities in providing correct information, but the alien has not.
- (b) A sponsor shall not be held at fault for a CWD administrative error.

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.42 Criteria for Initiating Collection Action on Intentional Program Violation Claims

If an administrative disqualification hearing official or a court of appropriate jurisdiction finds that a household member or the sponsor of an alien household member committed intentional Program violation or if an individual accused of intentional Program violation signs either an Administrative Disqualification Hearing Waiver or Disqualification Consent Agreement, the CWD shall initiate collection action against the individual's household or the sponsor of the alien household member. In addition, to the extent possible, the CWD shall make a personal contact with the household and/or its sponsor.

.421 The CWD shall initiate such collection unless:

- (a) the household has repaid the overissuance already,
- (b) the CWD has documentation which shows the household (and its sponsor, if an alien household), cannot be located, or,
- (c) the CWD determines that collection action will prejudice the case against a household member referred for legal prosecution.

.422 The CWD shall initiate collection action for an unpaid or partially paid claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim. In cases where a household member was found guilty of intentional Program violation by a court or has signed a Disqualification Consent Agreement, the CWD shall request that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and accused individual.

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.43 Initiating Collection on Claims

- .431 CWDs shall initiate collection action by providing the household or the sponsor of an alien household notice of action requesting repayment which provides the following information:
- (a) The amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household or its sponsor may pay the claim, and the household's or the sponsor's right to a state hearing if the household or the sponsor disagrees with the amount of the claim.
 - (b) If the household already has had a state hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the state hearing, the household shall be advised that they have no right to another state hearing on the amount of the claim.
 - (c) If there is an individual or organization that will provide free legal representation, the household shall be advised of the availability of these services.
 - (d) The household, or the sponsor shall be informed of the length of time the household has to decide which method of repayment it will choose and inform the CWD of its decision, and of the fact that the household's allotment will be reduced if the household fails to agree to make restitution.

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- (e) Any household or sponsor against which the CWD has initiate collection action shall be informed of their right to request renegotiation of any repayment schedule to which the household or the sponsor has agreed should the economic circumstances of the household or the sponsor undergo a change.
 - (1) A change in economic circumstances shall include, but not be limited to, changes in income, resources, or expenses. A change in household allotment shall not constitute a change in economic circumstances.

HANDBOOK BEGINS HERE

- (f) The recommended CDSS developed forms to use for requesting repayment of claim determinations are the DFA 377.7B, the DFA 377.7D, and the DFA 377.7F.

HANDBOOK ENDS HERE

- .432 If the household pays the claim, payments shall be accepted and submitted to CDSS in accordance with the procedures outlined in Section 63-801.8.
- .44 Action Against Households and Sponsors of Alien Households Who Fail to Respond
 - .441 The CWD shall reduce the household's Food Stamp benefits without further notice as specified in Section 63-801.73, when:
 - (a) Collection action has been initiated against the household or the sponsor for repayment of a claim; and

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- (b) The household is currently participating in the Food Stamp Program; and
- (c) The household does not respond to the notice of action requesting repayment within 30 days of the date the notice is mailed.

.442 Other Collection Methods

- (a) The CWD shall pursue other collection actions, as appropriate, to obtain restitution of a claim against any household or sponsor who fails to respond to a written demand letter for repayment of any IPV claim, unless the CWD can determine that such other actions are generally not cost effective.
- (b) The CWD may also pursue other collection actions as appropriate, to obtain restitution of a claim against any household or sponsor who fails to respond to a written demand letter for repayment of any inadvertent household error, or administrative error claim.
- (c) If the CWD chooses to pursue other collection actions and the household pays the claim, payments shall be submitted to CDSS as specified in Section 63-801.8. The CWD's retention of claim collections shall be based on the actual amount collected from the household through such collection actions excluding collection costs.

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.5 Suspending and Terminating Collection of Claims

.51 Suspending Collection of Inadvertent Household and Administrative Error Claims

.511 If no collection action was initiated because of conditions specified in Section 63-801.411, the CWD shall be permitted to suspend an inadvertent household or administrative error claim.

.512 If collection action was initiated, and at least one demand letter has been sent, the CWD may be permitted to suspend further collection action of an inadvertent household error claim or of an administrative error claim against a nonparticipating household when:

- (a) The household cannot be located; or
- (b) The cost of further collection action is likely to exceed the amount that can be recovered.

.52 Suspending Collection of Intentional Program Violation Claims

.521 The CWD shall be permitted to suspend collection action on intentional Program violation claims at any time if it has documentation that the household and/or the sponsor cannot be located.

.522 If collection action was initiated, and demand letters as specified below sent, the CWD shall suspend further collection action on any intentional Program violation claim against a nonparticipating household or its sponsor when the cost of further collection action is likely to exceed the amount that can be recovered.

- (a) At least one demand letter for claims of less than \$100.
- (b) At least two demand letters for claims between \$100 and \$400.
- (c) At least three demand letters for claims of more than \$400.

.53 Terminating Collection of Claims

The CWD shall be permitted to determine that a claim is uncollectible after it has been held in suspense for three years. The CWD shall use a suspended or terminated claim to offset a restoration of lost benefits in accordance with Section 63-802.54.

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.54 Claims Discharged Through Bankruptcy

CWDs shall act on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owing food stamp claims. CWDs shall possess any rights, priorities, interests, liens or privileges, and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, CWDs shall have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amounts collected under this authority shall be transmitted to FNS as provided in Section 63-801.8.

.6 Change in Household Composition

.61 The CWD shall initiate collection action against any or all of the adult members of a household which received an overissuance for which an intentional Program violation, inadvertent household or administrative error claim was established in accordance with Section 63-801.1.

.611 If a change in household composition occurs, the CWD shall initiate collection action which may be taken against any or all households which contain an adult member who was an adult member of the original household that received an overissuance. The CWD may also offset the amount of the claim against restored benefits in accordance with Section 63-802.542.

.62 In pursuing claims, the CWD shall use any of the appropriate methods of collecting payments as specified in Sections 63-801.43 and 63-801.7. The CWD shall not collect more than the amount of the claim under any circumstances.

.7 Method of Collecting Payments

As specified in Section 63-801.4, CWDs shall collect payments for claims against households as follows:

.71 Lump Sum

.711 If the household or the sponsor chooses to pay the claim at one time, the CWD shall collect a lump sum payment. The household shall not be required to liquidate all of its resources to make this one lump sum repayment.

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.712 If the household or the sponsor prefers to make a lump sum cash payment as partial payment of the claim, the CWD shall accept this method of payment.

.713 If the household or the sponsor chooses to make a lump sum payment of food stamp coupons as full or partial payment of the claim, the CWD shall accept this method of repayment.

.72 Installments

.721 The CWD shall negotiate a payment schedule with the household or the sponsor if the household or sponsor chooses this method for a full or partial repayment of the claim. Payments shall be accepted by the CWD in regular installments. The household may use food coupons as full or partial payment of any installment. A CWD shall use the full amount of the claim to offset any restoration of lost benefits due the household.

.722 If the household or the sponsor fails to make a payment in accordance with the established repayment schedule (either a lesser amount or no payment), the CWD shall notify the household or the sponsor that no payment or an insufficient payment was received.

(a) The notice of action requesting repayment shall inform the household or the sponsor that:

(1) They may contact the CWD to discuss renegotiation of the payment schedule; and

(2) Unless the overdue payments are made or the CWD is contacted to discuss renegotiation of the payment schedule, the benefits of a currently participating household with an established claim will be reduced without a further notice and as specified in Section 63-801.73.

(b) If the household, or the sponsor responds to the notice of action requesting repayment, the CWD shall take one of the following actions as appropriate:

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- (1) If the household or the sponsor makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household or the sponsor to do so;
 - (2) If the household or the sponsor requests renegotiation, and if the CWD concurs with the request, negotiate a new payment schedule;
 - (3) If the household or the sponsor requests renegotiation of the amount of its repayment schedule, but the economic circumstances of the household or the sponsor have not changed enough as specified in Section 63-801.431(e)(1) to warrant the requested settlement, the CWD may continue renegotiation until a settlement can be reached. The CWD may invoke allotment reduction against a currently participating household for repayment of an intentional Program violation claim if a settlement cannot be reached.
- (c) If the household or the sponsor fails to respond, the CWD shall invoke allotment reduction. If allotment reduction is invoked, no further notice is required.

.723 In cases where the household is currently participating in the Food Stamp Program and a payment schedule is negotiated for repayment of a claim, the CWD shall ensure that the negotiated amount to be repaid each month through installment payments is not less than the amount which could be recovered through allotment reduction. Once negotiated, the amount to be repaid each month through installment payments shall remain unchanged regardless of subsequent changes in the household's monthly allotment. However, the CWD, the household, or the sponsor shall have the option to initiate renegotiation of the payment schedule if they believe that the economic circumstances of the household or the sponsor have changed enough to warrant such action.

.73 Reduction in Food Stamp Allotments

.731 CWDs shall collect repayments for a claim from a household currently participating in the Program by reducing the household's food stamp allotments as provided in Section 63-801.44.

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- .732 Prior to reduction, the CWD shall send the household a DFA 377.7C, a DFA 377.7E, or a DFA 377.7G informing them of the appropriate formula specified in Section 63-801.737, for determining the amount of food stamps to be recovered each month and the effect of that formula on the household's allotment (i.e., the amount of food stamps the CWD expects will be recovered each month), and of the availability of other methods of repayment.
- .733 If the household requests to make a lump sum cash and/or food stamp coupon payment as full or partial payment of the claim, the CWD shall accept this method of payment. The CWD shall reduce the household's allotment as specified in Section 63-801.736, to recover any amounts of a claim not repaid through a lump sum cash and/or food stamp coupon payment, unless a payment schedule has been negotiated with the household.
- .734 The provision in Section 63-503.325 for a \$10 minimum benefit level for households with one and two members only, shall apply to the allotment prior to the reduction.
- .735 The CWD shall use the full amount of the claim to offset any restoration of lost benefits.
- .736 The amount of food stamps to be recovered each month through allotment reduction shall be determined in accordance with the following procedures and the calculated figure rounded as specified in Section 63-503.31.
- (a) Inadvertent Household and Administrative Error Claims
- For inadvertent household and administrative error claims, the amount of food stamps recovered shall be 10 percent of the household's monthly allotment or \$10 per month, whichever is the greater amount.

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(b) Intentional Program Violation Claims

For intentional Program violation claims, the amount of food stamps shall be 20 percent of the household's monthly allotment or \$10 per month, whichever is the greater amount.

.74 Interstate/Intercounty Claims Collection

.741 In cases where a household moves out of state, the CWD shall initiate or continue collection action against the household for any overissuance to the household which occurred while it was under the state's jurisdiction. The CWD which overissued benefits to the household shall have the first opportunity to collect any overissuance. However, if the CWD which overissued benefits to the household does not take action to collect as soon as administratively possible, then the government agency which administers the area into which the household moves may initiate action to collect the overissuance. Prior to initiating action to collect claims against households which have moved into the state, the CWD shall contact the agency which overissued benefits to ascertain that it does not intend to pursue prompt collection. The claim collection incentive shall be retained by the CWD which collects the overissuance.

.742 In cases where a household moves from one county to another within the state, the CWD in the county where the overissuance occurred shall initiate or continue collection action against the household. If the CWD in the county where the household was overissued benefits is unable to take action to collect, then the CWD in the county of the household's new residence shall initiate action to collect the overissuance. However, prior to initiating action to collect such overissuances, the CWD in the household's new county of residence shall contact the CWD in the county where the overissuance occurred to ascertain that it is unable to pursue collection action. The claim collection incentive is retained by the CWD which collects the overissuance.

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.8 Submission of Payments

- .81 The CWD shall retain the value of funds collected for inadvertent household error, intentional Program violation, or administrative error claims. This amount includes the total value of allotment reductions to collect claims, but does not include the value of benefits not issued as a result of a household member being disqualified. The CWD's advance will be adjusted on a quarterly basis (calendar quarter) in an amount equal to the state and federal share of the quarterly intentional Program violation, inadvertent household error, and administrative error claim collections together with any adjustments for prior quarters.
- .82 Each CWD shall submit, for each calendar quarter, a FNS-209.
- .821 A completed FNS-209 is due no later than 30 days after the end of each calendar year quarter and shall be submitted to CDSS even if the CWD has not collected any payments. Failure to submit the FNS-209 to CDSS in a timely manner or in a fully completed format may result in a temporary suspension of a portion of the CWD's advance.
- .822 In addition to reporting the amount of funds recovered from inadvertent household error, intentional Program violation and administrative error claims each quarter on the FNS-209, the CWD shall also report these amounts on other documents as required by CDSS regulations.
- .823 In accounting for claims collections, the CWD shall include cash or coupon repayments and the value of allotments recovered or offset by the restoration of lost benefits. The value of benefits not issued as a result of a household member being disqualified, shall not be considered recovered allotments and shall not be used to offset an intentional Program violation claim.
- .83 Collections from claims established as inadvertent household errors prior to the determination of intentional Program violation shall be handled as follows:

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- .831 After a determination of intentional Program violation is made, the CWD may retain any amounts recovered on a claim being handled as an inadvertent household error claim at the incentive rate applicable for intentional Program violation claims. Prior to the determination of intentional Program violation, the claim retention amount shall be at the rate applicable to inadvertent household error claims.
- .84 If a household has overpaid a claim, the CWD shall pay the household any amounts overpaid as soon as administratively possible, but not later than 10 days after the overpayment becomes known.
- .841 The household shall be paid by cash or coupons as the CWD deems appropriate considering the household's circumstances.
- .842 Overpaid amounts of a claim, which have been reported as collections on a prior FNS-209 and which have been repaid to the household, shall be reported on the FNS-209 for the quarter in which the repayment occurred.
- .85 Returned Coupons
- The CWD may return to inventory any coupon books which are received, intact and in usable form, from households as payment for claims, as specified in Section 63-706.3. The CWD shall destroy any coupons or coupon books which are not returned to inventory as specified in Section 63-706.1.
- .851 The CWD shall require the collection points to complete a FNS-135 as verification for receipt of coupons returned as payment of a claim.
- .852 The CWD shall require the collection points to void, immediately upon receipt, any coupons collected as payment and not returned to inventory, and either send the coupons to a coupon destruction point or hold the subject coupons in secure storage pending examination and destruction by the CWD at the claims collection point.
- .853 Repealed by Manual Letter No. FS-91-03, effective 3/1/91.
- .854 Repealed by Manual Letter No. FS-91-03, effective 3/1/91.

63-801	CLAIMS AGAINST HOUSEHOLDS (Continued)	63-801
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HANDBOOK BEGINS HERE

- .86 In cases where FNS has billed CDSS for CWD negligence, FNS will credit any amounts collected from households which were caused by the CWD's negligence.

HANDBOOK ENDS HERE

.9 Accounting Procedures

Each CWD shall maintain an accounting system for monitoring claims against households. At a minimum, the accounting system shall be designed to readily accomplish the following:

- .91 Identify claims by categories of inadvertent household error, administrative error, and intentional Program violations.
- .92 Provide data necessary to complete the FNS-209.
- .93 Document the circumstances which resulted in a claim, the procedures used to calculate the claim, the methods used to collect the claim and, if applicable, the circumstances which resulted in suspension or termination of collection action.
- .94 Identify those situations in which an amount not yet restored to a household as a restoration of lost benefits can be used to offset a claim owed by the household.
- .95 Identify those households that have failed to make installment payments on their claims.
- .96 Document how much money was collected in payment of a claim and how much was submitted to CDSS through an adjustment of the CWD's advance.
- .97 Identify, at certification, households that owe outstanding payments on a previously established claim determination. The initial allotment shall not be reduced to offset claims. Actions on identified claims shall be as specified in Section 63-801.4.

NOTE: Authority cited: Sections 10554 and 18904, Welfare and Institutions Code. Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 CFR 271.2; 7 CFR 273.18(a), (a)(1)(ii), and (a)(2); 7 CFR 273.18(c)(1)(ii) and (c)(2)(ii) (Federal Register, Vol. 58, No. 209, pp. 58454 and 58455, dated November 1, 1993); 7 CFR 273.18(d)(4)(iii); 7 CFR 273.18(e)(1); 7 CFR 273.18(g)(4)(ii); 7 CFR 273.18(h)(4); 7 CFR 273.18(k)(5); U.S.D.A., Food and Nutrition Service letter WFS-100:FS-10-6-CA, dated October 7, 1991; and P.L. 104-193, Sections 809 and 844 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996).

63-802	RESTORATION OF LOST BENEFITS	63-802
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.1 Entitlement

.11 The CWD shall restore to a household benefits which were lost whenever:

.111 the loss was caused by an administrative error as defined by Section 63-801.22, or;

.112 an administrative disqualification for an intentional Program violation was subsequently reversed as specified in Section 63-805.3, or;

.113 a statement elsewhere in the regulations specifically states that the household is entitled to restoration of lost benefits.

.12 Unless a longer period of time is specified elsewhere in regulations, lost benefits shall be restored for not more than 12 months prior to the earlier of the following dates:

.121 The date the CWD receives a request for restoration from a household; or

.122 The date the CWD is notified or otherwise discovers that a loss to a household has occurred.

.13 The CWD shall restore lost benefits even if the household is currently ineligible for Food Stamp Program participation.

.14 The CWD shall restore to a household benefits which were found by any judicial action to have been wrongfully withheld.

.141 When the judicial action is a review of a state hearing, benefits shall be restored for a period of not more than 12 months prior to the date that the state hearing was initiated, or the dates specified in Section 63-802.12, whichever is the earliest.

63-802	RESTORATION OF LOST BENEFITS (Continued)	63-802
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- .142 If the judicial action is the first action the recipient has taken to obtain restoration of lost benefits, then benefits shall be restored for a period of not more than 12 months from the date the judicial action was initiated.
- .15 Lost Benefits to Individuals Disqualified for Intentional Program Violation
- If the decision which resulted in a disqualification for intentional Program violation is subsequently reversed by a judicial action, that individual is entitled to a restoration of any benefits lost during the months that he/she was disqualified.
- .151 The restoration shall not exceed 12 months prior to the date of the CWD's notification of the reversal, except when the individual has participated in an administrative disqualification hearing. The CWD shall consider the individual's prior participation in the administrative disqualification hearing as notification that the household has requested a restoration of lost benefits, and shall restore benefits from the effective date of the notice of action informing the household of the administrative disqualification.
- .152 For each month the individual was disqualified, the amount to be restored, if any, shall be determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate. If the household received a smaller allotment than it should have received, the difference equals the amount to be restored.
- .16 Entitlements to Households With Delayed Photo ID Card Replacements
- Mutilated or altered photo ID cards shall be replaced as specified in Section 63-504.862 prior to the issuance of coupons. Therefore, if a household's opportunity to participate expires between the time the household requests the photo ID card replacement and the delivery of that card, the CWD shall restore any resulting lost benefits to the household.

63-802	RESTORATION OF LOST BENEFITS (Continued)	63-802
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.17 Entitlements to Households With Changed Membership

Whenever lost benefits are due a household and the household's membership has changed, the CWD shall restore the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If the CWD cannot locate or determine the household which contains a majority of household members, the CWD shall restore the lost benefits to the household containing the head of the household at the time the loss occurred.

.2 Method of Restoration

.21 Regardless of whether a household is currently eligible or ineligible, the CWD shall restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost. The amount restored shall be issued in addition to the allotment currently eligible households are entitled to receive. The CWD shall honor reasonable requests by households to restore lost benefits in monthly installments if, for example, the household fears the excess coupons may be stolen, or that the amount to be restored is more than it can use in a reasonable period of time.

.22 Whenever a household entitled to a restoration of lost benefits informs a CWD that it is moving out of the county, benefits shall be restored in a lump sum prior to the move, whenever possible. When benefits cannot be restored prior to the move the CWD shall mail the entitlement in the form of coupons to the household at the new address.

.3 Agency Errors

If the CWD determines that a loss of benefits has occurred and the household is entitled to restoration of those benefits, the CWD shall automatically take action to restore any benefits that were lost. No action by the household is necessary. However, benefits shall not be restored if the benefits were lost more than 12 months prior to the month the loss was discovered by the CWD in the normal course of business, or were lost more than 12 months prior to the month the CWD was notified in writing or orally of a possible loss to a specific household. The CWD shall notify the household of its entitlement, the amount of benefits to be restored, any offsetting that was done, the method of restoration, and the right to appeal through the state hearing process if the household disagrees with any aspect of the proposed lost benefit restoration.

63-802	RESTORATION OF LOST BENEFITS (Continued)	63-802
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.4 Disputed Benefits

- .41 If the CWD determines that a household is entitled to restoration of lost benefits, but the household does not agree with the amount to be restored as calculated by the CWD or any other action taken by the CWD to restore lost benefits, the household may request a state hearing within 90 days of the date the household is notified of its restoration of lost benefits. If a state hearing is requested prior to or during the time lost benefits are being restored, the household shall receive the lost benefits as determined by the CWD pending the results of the state hearing. If the state hearing decision is favorable to the household, the CWD shall restore the lost benefits in accordance with that decision.
- .42 If a household believes it is entitled to restoration of lost benefits but the CWD, after reviewing the case file does not agree, the household has 90 days from the date of the CWD determination to request a state hearing. The CWD shall restore lost benefits to the household only if the state hearing decision is favorable to the household. Benefits lost more than 12 months prior to the date the CWD was initially informed of the household's possible entitlement to lost benefits shall not be restored.

.5 Computing the Benefit to be Restored

After correcting the loss for future months and excluding those months for which benefits may have been lost prior to the 12-month time limit, the CWD shall calculate the amount to be restored.

- .51 If the household was eligible but received an incorrect allotment, the loss of benefits shall be calculated only for those months the household participated. However, if a household did not have an opportunity to participate because of an incorrect delay, denial, or termination of benefits, the months affected by the loss shall be calculated as follows:
- .511 If an eligible household's application was erroneously denied, the month the loss initially occurred shall be the month of application, or for an eligible household filing a timely reapplication, the month following the expiration of its certification period.
- .512 If an eligible household's application was delayed, the months for which benefits may be lost shall be calculated in accordance with procedures in Section 63-301.4.

63-802	RESTORATION OF LOST BENEFITS (Continued)	63-802
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- .513 If the household's benefits were erroneously terminated, the month the loss initially occurred shall be the first month benefits were not received as a result of the erroneous action.
- .514 After computing the date the loss initially occurred, the loss shall be calculated for each month subsequent to that date until either the first month the error is corrected or the first month the household is found ineligible.
- .52 For each month affected by the loss, the CWD shall determine if the household was actually eligible. In cases where there is no information in the household's case file to document that the household was actually eligible, the CWD shall advise the household of what information must be provided to determine eligibility for these months. For each month the household cannot provide the necessary information to demonstrate its eligibility, the household shall be considered ineligible.
- .53 For the months the household was eligible, the CWD shall calculate the allotment the household should have received. If the household received a smaller allotment than it was eligible to receive, the difference between the actual and correct allotments equals the amount to be restored.
- .54 If a claim against a household is unpaid, suspended or terminated as provided in Section 63-801.5, the amount to be restored shall be offset against the amount due on the claim before the balance, if any, is restored to the household.
- .541 When a household is certified and receives an initial allotment, this initial allotment shall not be reduced to offset claims even if the allotment is paid retroactively.
- .542 If a change in household composition occurs, the CWD shall offset the amount of the claim against restored benefits in accordance with Sections 63-801.313 and 63-801.323. This action may be taken against any or all households which contain a member who was an adult member of the original household at the time the overissuance occurred (see Section 63-801.1).
- (a) The CWD shall not collect more than the amount of the claim under any circumstances.

63-802	RESTORATION OF LOST BENEFITS (Continued)	63-802
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.55 Since coupon books with values of \$1, \$3, or \$5 cannot be issued, restorations made in allotments of \$1, \$3, and \$5 shall be rounded to \$2, \$4, and \$6 respectively.

.6 Accounting Procedures

Each CWD shall be responsible for maintaining an accounting system for documenting a household's entitlement to restoration of lost benefits and for recording the balance of lost benefits that shall be restored to the household. Each CWD shall at a minimum, document how the amount to be restored was calculated and the reason lost benefits must be restored. The accounting system shall be designed to readily identify those situations where a claim against a household can be used to offset the amount to be restored.

NOTE: Authority cited: Sections 10554 and 18904, Welfare and Institutions Code. Reference: 54 Federal Register 30, Table of Redesignations (Part 274), p. 6991, 7 CFR 273.17(a)(1); 7 CFR 273.17(d)(4); and Sections 10554 and 18904, Welfare and Institutions Code.

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Repealed by Manual Letter No. FS-91-03, effective 3/1/91.

NOTE: Authority cited: Sections 10554 and 18904, Welfare and Institutions Code. Reference: 54 Federal Register 30, Table of Redesignations (Part 274), p. 6991.

63-804	STATE HEARINGS	63-804
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- .1 Availability of hearings. Households aggrieved by actions of the CWD which affect the participation of the household in the Program shall be entitled to file for a state hearing if the action is subject to a state hearing. Further, a sponsor of an alien household is entitled to a state hearing either to contest a determination that the sponsor was at fault where it was determined that incorrect information has been provided or to contest the amount of the claim. State hearings shall be conducted in accordance with the provisions of Division 22.
- .2 Notification of right to request hearing. At the time of application, each household shall be informed in writing of its right to a hearing, of the method by which a hearing may be requested, and that its case may be presented by a household member or a representative, such as a legal counsel, a relative, a friend or other spokesperson. In addition, at any time the household expresses to the CWD that it disagrees with a CWD action, it shall be reminded of the right to request a state hearing. If there is an individual or organization available that provides free legal representation in the county, the household shall also be informed of that service.
- .3 Hearing request. A request for a hearing is defined as a clear expression, oral or written, by the household or its representative to the effect that it wishes to appeal a decision or that an opportunity to present its case to a higher authority is desired. If it is unclear from the household's request what action it wishes to appeal, the CWD may request the household to clarify its grievance. The freedom to make a request for a hearing shall not be limited or interfered with in any way.

63-804 STATE HEARINGS (Continued)**63-804**

- .4 Agency conferences. The CWD shall offer agency conferences to households which wish to contest a denial of expedited service under the procedures in 63-301.5. The CWD may also offer an agency conference to households adversely affected by an agency action. The CWD shall advise households that use of an agency conference is optional and that it shall in no way delay or replace the state hearing process. The agency conferences may be attended by the eligibility worker responsible for the agency action, and shall be attended by an eligibility supervisor and/or the agency director, and by the household and/or its representative. An agency conference may lead to an informal resolution of the dispute. However, a state hearing must still be held unless the household makes a written withdrawal of its request for a hearing.
- .41 An agency conference for households contesting a denial of expedited service shall be scheduled within two working days, unless the household requests that it be scheduled later or states that it does not wish to have an agency conference.
- .5 Time period for requesting hearing. A household shall be allowed to request a hearing on any action by the CWD or loss of benefits which occurred within the prior 90 days. In addition, at any time within a certification period a household may request a state hearing to dispute its current level of benefits.
- .6 Continuation of Benefits
- .61 Request for Continuation of Benefits
- .611 If a household whose benefits have been reduced or terminated files a request for a hearing within the appropriate time frame, as specified in Section 63-804.62, and the household's certification period has not expired, the CWD shall continue the household's participation in the Food Stamp Program on the basis authorized immediately prior to the effective date of the reduction or termination unless the household specifically waives in writing the continuation of benefits.
- (a) If a household requests a hearing because of the denial of a request for a replacement ATP or coupons, the denial of the request shall remain in effect pending the hearing decision.

63-804	STATE HEARINGS (Continued)	63-804
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- (b) If a household requests a hearing due to a reduction or termination of benefits resulting from a mass change, except as specified in Section 63-107.9, the household shall be entitled to continuation of benefits only if the issue being contested is that its eligibility or benefits were improperly computed or that the CWD misapplied or misinterpreted state regulations.
- (c) If a household requests a hearing due to a termination of benefits because the household failed to provide verification postponed for expedited service, the termination shall remain in effect pending the hearing decision.

.612 If the request for a hearing does not positively indicate that the household has waived continuation of benefits, the CWD shall assume that continuation of benefits is desired and shall issue the benefits, in accordance with Section 63-804.6. If CWD action is upheld by the hearing decision, a claim against the household shall be established for all overissuances as specified in Section 63-801.213.

.613 If the request for a hearing is not made within the appropriate time frame, as specified in Section 63-804.62, the CWD shall take no action to continue the household's benefits at the prior level. However, if the household establishes that its failure to make the request within the appropriate time frame was for good cause, in accordance with Section 22-053.15, the CWD shall reinstate the benefits to the prior level.

.62 Time Frame for Requesting Continuation of Benefits

A household's request for continuation of benefits shall be considered filed within the appropriate time frame if the hearing request is made within the period specified for the type of notice provided to the household. If the time frame for requesting a hearing and continuation of benefits ends on a weekend or holiday, the request shall be considered timely if it is filed the day after the weekend or holiday.

63-804	STATE HEARINGS (Continued)	63-804
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- .621 A household provided a timely notice of action, shall file their request as specified in Section 22-004 for a hearing prior to the effective date of the proposed reduction or termination of its benefits.
- .622 A household provided a concurrent notice of action as specified in Section 63-504.264(b), shall file, as specified in Section 22-004, their request for a hearing prior to 10 days following the date the CWD mails this notice to the household.
- .623 A household provided a notice of action informing the household of a proposed change in benefits or of a termination of benefits for the nonsubmittal of a complete CA 7, shall file its request prior to the effective date of the termination of its benefits.
- .63 Time Frames for Providing Continuation of Benefits
 - .631 The CWD shall provide continued benefits, as specified in Section 22-023.1, to any household entitled to such benefits within five working (5) days of the date:
 - (a) The CWD receives a written request from the household; or
 - (b) The CWD is notified by CDSS of the household's written request for a hearing; or
 - (c) CDSS receives the household's oral request for a hearing.
 - .632 Continued benefits shall not be provided to the household prior to the first regular issuance date when the household's benefits would have been reduced or terminated.
- .64 Changes Pending the Hearing Decision
 - .641 Any monthly reporting household whose benefits have been continued shall continue to file CA 7s until the end of its certification period.
 - .642 Once continued or reinstated, benefits shall not be reduced or terminated prior to the receipt of the official hearing decision, unless any of the following situations occur while the hearing decision is pending:

63-804	STATE HEARINGS (Continued)	63-804
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- (a) A household's certification period expires. The household may reapply and may be determined eligible for a new certification period and for an allotment calculated by the CWD.
- (b) The hearing official makes a preliminary determination in writing at the hearing as specified in Section 22-022.523 that the sole issue is one of regulation and that the household's claim that the CWD improperly computed its benefits or misapplied or misinterpreted the regulations is invalid.
- (c) A change in household circumstances other than the issue being contested results in a reduction or termination of the household's benefits and the household fails to file a request for a hearing and continuation of benefits after receiving the corresponding notice of action.
- (d) A mass change reduces or terminates the household's benefits and the household fails to file a request for a hearing and continuation of benefits.
- (e) A monthly reporting household fails to provide required verification of items on the CA 7 resulting in a reduction or termination of benefits, unless this is the issue being contested, and the household fails to file a request for a hearing and continuation of benefits after receiving the corresponding notice of action informing the household of a proposed change in benefits or of a termination of benefits for the nonsubmittal of a complete CA 7.
- (f) A monthly reporting household fails to file a CA 7 or fails to file a complete CA 7 by the extended filing date, resulting in a termination of benefits. The household does not file a request for a hearing and continuation of benefits after receiving the corresponding notice of action informing them of a termination of benefits for the nonsubmittal of a complete CA 7.

.643 The CWD shall notify the household as specified in Section 63-504.261 whenever benefits are reduced or terminated pending the hearing decision.

63-804	STATE HEARINGS (Continued)	63-804
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.7 Timely Action on Hearing Decisions

Decisions which result in an increase in a household's benefits shall be reflected in the coupon allotment within 10 days of the receipt of the hearing decision even if the CWD must provide a supplementary authorization document or otherwise provide the household with an opportunity to obtain the allotment outside of the normal issuance cycle. However, the CWD may take longer than 10 days if it elects to make the decision effective in the household's normal issuance cycle, provided that the issuance will occur within 60 days from the household's request for the hearing. Decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the hearing decision.

NOTE: Authority cited: Sections 10554 and 18904, Welfare and Institutions Code. Reference: 7 CFR 271.2 and Sections 10554 and 18904, Welfare and Institutions Code.

63-805	INTENTIONAL PROGRAM VIOLATION DISQUALIFICATION	63-805
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.1 Disqualification Penalties for Intentional Program Violation

- .11 Individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a court of appropriate jurisdiction or individuals accused of intentional Program violation who have signed an Administrative Disqualification Hearing Waiver or a Disqualification Consent Agreement shall be ineligible to participate in the Food Stamp Program as specified in Section 20-300.3.
- .12 Provisions governing administrative and court-ordered disqualifications, CWD administrative responsibilities and reporting requirements, and other related provisions are covered in CDSS' Manual of Policies and Procedures, Division 20, Chapter 20-300.

63-805	INTENTIONAL PROGRAM VIOLATION DISQUALIFICATION	63-805
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(Continued)

.2 Participation While Awaiting a Hearing

A pending disqualification hearing shall not affect the individual's or the household's right to be certified and participate in the Food Stamp Program. Since the CWD cannot disqualify a household member for intentional Program violation until the hearing official finds that the individual has committed an intentional Program violation, the CWD shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household.

.21 The household's benefits shall be terminated if the certification period has expired and the household fails to reapply, after receiving a notice of action informing them of the expiration of their certification period.

.22 The CWD shall also reduce or terminate the household's benefits if it has documentation which substantiates that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of intentional Program violation and the resulting disqualification hearing) and the household fails to request a state hearing and continuation of benefits pending the hearing.

.3 Reversed Administrative Disqualifications

In cases where the determination of intentional Program violation is reversed by a court of appropriate jurisdiction, the CWD shall reinstate the individual in the Food Stamp Program if the household is eligible. The CWD shall restore benefits that were lost as a result of the disqualification in accordance with the procedures specified in Section 63-802.15.

NOTE: Authority cited: Sections 10554 and 18904, Welfare and Institutions Code. Reference: Sections 10554 and 18904, Welfare and Institutions Code.